

SUMMARY

In the Office Action dated August 22, 2007, the declaration was held defective. Claims 6-20 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 1-3 were rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1-3 of U.S. Patent No. 6,968,992. Claims 4-20 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 4-20 of U.S. Patent No. 6,968,992 in view of Skolik, et al.

By this Amendment, claims 1-3 will have been canceled, claims 4-6 and 20 will have been amended, claims 21-35 will remain canceled, claims 36-46 will have been added, and claims 4-20 and 36-46 will be pending in this application.

REMARKS

Objection to the Declaration:

The oath or declaration was held defective as not acknowledging the duty to disclose information under 37 C.F.R. §1.56. Applicant submits herewith a new declaration and requests removal of the declaration objection.

Claim Rejections - 35 U.S.C. §112:

Claims 6-20 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the Examiner stated:

In claim 6, “a separate paperboard insert is secured to each top end flap” is unclear with respect to how many inserts are being claimed and whether the insert(s) include the previously positively recited insert as set forth in claims 1 and 5. If the insert(s) defined in claim 6 include the one previously set forth in the claims, the phrase is a double inclusion of an element. If the insert(s) defined in claim 6 do(es) not include the one previously defined, it is unclear what insert as previously defined in claims 1 and 5, as disclosed, is being referred to. Claim 6 is further unclear insofar as claims 7-11 and claims 12-20 which all depend from

claim 6, respectively are referring to a different number of inserts, i.e. claims 7-11 refer back to a plurality of inserts previously claimed while claims 12-20 refer back to a single insert previously claimed.

Applicant traverses this rejection. The language quoted by Examiner Elkins is not currently pending in claim 6 as examined. In fact, the language quoted by Examiner Elkins was reviewed, approved, and initialed by Examiner Elkins from a 312 Amendment filed in US Application 10/693,210 (now US Patent No. 6,968,992). Accordingly, since this language is not currently pending in the present application, the 35 U.S.C. §112 rejection should be removed as moot.

Claims 6 and 12 have been amended to better define the scope of claim protection sought.

Double Patenting Rejections:

Claims 1-3 were rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1-3 of prior U.S. Patent No. 6,968,992. Claims 4-20 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 4-20 of U.S. Patent No. 6,968,992 in view of Skolik et al. Applicant traverses these rejections.

Claims 1-3 have been canceled by this Amendment. Claims 4 and 5 have been written in independent form. Since a terminal disclaimer in view of U.S. Patent No. 6,968,992 is being filed herewith, the rejections of claims 4-20 should be removed as overcome.

Claims 36-46 have been added and define a different claim scope for which protection is sought. As added, claims 36-46 define over all cited and known art. An indication of allowability of claims 36-46 is requested.

CONCLUSION

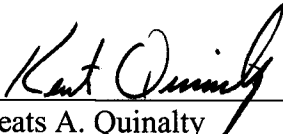
Claims 4-20 and 36-46 are thus allowable and Applicant requests an indication of such in the application.

AUTHORIZATION

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 09-0528.

Respectfully submitted,

12/11/07
Date


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